

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JOSEPH EUGENE NAGY,

*Plaintiff,*

v.

KEVIN MCGRATH et al.,

*Defendants.*

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No. 3:22-CV-1627-X-BN

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE  
JUDGE**

On August 5, 2022, the United States Magistrate Judge recommended that the Court dismiss this case. [Doc. No. 7]. On August 13, 2022, Joseph Nagy received that recommendation.<sup>1</sup> On August 23, 2022, the Court accepted the Magistrate Judge's recommendation, dismissed the case, and entered final judgment. [Doc. Nos. 8, 9]. But here's the twist. On the same day—August 23, 2022—Nagy moved to dismiss his own complaint. [Doc. No. 10]. Nagy then moved to vacate the Court's judgment. [Doc. No. 11]. The Magistrate Judge then made findings, conclusions, and a recommendation on that motion to vacate. [Doc. No. 12]. Specifically, the Magistrate Judge concluded that, because Nagy had received the Magistrate Judge's

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<sup>1</sup> Doc. No. 11 at 1.

initial recommendation on August 13, 2022, this case had “reached the point of no return” where it’s too late for a plaintiff to dismiss his own case.<sup>2</sup>

Nagy objects to that recommendation on five grounds. First, Nagy notifies the Court of his gratitude to “Yeshua, our Lord and Savior” for, *inter alia*, “the first day of Autumn.”<sup>3</sup> Second, citing the Gospel of John, Nagy confesses that he “has sinned.”<sup>4</sup> Third, Nagy insinuates that the Court has jurisdiction because the requisite “amount in controversy” is met.<sup>5</sup> Fourth, he asserts that the Court’s rulings “seem discriminatory to a postal filer.”<sup>6</sup> Fifth, Nagy recites a laundry list of conclusory complaints, saying, for instance, that he objects to “the wrongful order,” “forced time restraints,” “wrongful filing times,” and “the magistrate’s prisoner references.”<sup>7</sup>

But Nagy’s objections fail to negate two dispositive facts. First, Nagy filed his motion to dismiss only after receiving the Magistrate Judge’s adverse recommendation. And, although it’s true that a plaintiff generally has an “absolute right to dismissal” of his own complaint before a defendant responds,<sup>8</sup> the Fifth Circuit has made clear that a district court properly “den[ies] [a] motion for voluntary

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<sup>2</sup> *Aero-Colours, Inc. v. Propst*, 833 F.2d 51, 52 (5th Cir. 1987).

<sup>3</sup> Doc. No. 13 at 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.*


<sup>7</sup> *Id.* at 3–4.

<sup>8</sup> *Welsh v. Correct Care, L.L.C.*, 915 F.3d 341, 344 (5th Cir. 2019).

dismissal without prejudice” when a “magistrate ha[s] [already] considered the case and issued a comprehensive recommendation that was adverse to [the plaintiff’s] position.”<sup>9</sup> So Nagy’s motion to dismiss was improper. Second, in the six months since the Magistrate Judge’s original dismissal recommendation, Nagy hasn’t filed a single substantive objection to that recommendation. So Nagy’s complaints about filing deadlines lack merit.

Accordingly, the Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the Magistrate Judge. The Court therefore **DENIES** Nagy’s Motion to Vacate Judgment [Doc. No. 11], construed as brought under Federal Rule of Civil Procedure 59(e), and **DIRECTS** the Clerk of Court to, solely for statistical purposes, **REOPEN** and then **CLOSE** this case.

**IT IS SO ORDERED** this 16th day of February, 2023.

  
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BRANTLEY STARR  
UNITED STATES DISTRICT JUDGE

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<sup>9</sup> *Davis v. Huskipower Outdoor Equip. Corp.*, 936 F.2d 193, 199 (5th Cir. 1991).